

Likewise, Mr. Speaker, this body has been diligent in its observance of the First Amendment's constitutional prohibitions on religion. With few exceptions, this body has diligently followed the directive established for the Court by Chief Justice Burger in *Walz v. Tax Commission of City of New York*, 397 U.S. 664 (1970):

The general principle deducible from the First Amendment and all that has been said by the Court is this: that we will not tolerate either governmentally established religion or governmental interference with religion. Short of those expressly proscribed governmental acts there is room for play in the joints productive of a benevolent neutrality which will permit religious exercise to exist without sponsorship or interference.

Mr. Speaker, it is this spirit that animates my concerns about H.R. 7, and thus compels me to speak against its passage in this form. Specifically, this legislation does not ensure that the delicate balance between church and state will be retained if the bill is allowed to pass in this form, for despite statements to the contrary, the bill might not pass either the effects test or the entanglement test of Supreme Court jurisprudence.

This bill does not provide assurances that the use of federal funds will not result in excessive entanglement with government bureaucracy and accounting and reporting requirements. The Leadership proposal dedicates funds to help sectarian organizations with accounting and administrative activities. Won't this have the same effect on promoting religion as a "symbolic union government and religion in one sectarian enterprise?" *Grand Rapids School District v. Ball*, 473 U.S. 373, 397 (1985). The mechanisms of this bill place the imprimatur of the Congress on impermissibly mingling church and state. This is the wrong message to send to the citizens of this country, who have entrusted us with the care of the document that sustains our democracy, the Constitution.

Also, by allowing federal agencies to convert funds into vouchers for religious organizations, the bill would unilaterally convert over \$47 billion in social service programs that could be used for sectarian purposes including proselytization. Court cases such as *Roemer v. Maryland Public Works*, 426 U.S. 736 (1976), permitted subsidies to private colleges with sectarian affiliations only because they were not pervasively sectarian.

This is not the case with the organizations that will benefit from this bill. This legislation will turn the Court right back to the controlling case, *Lemon v. Kurtzman*, 403 U.S. 602 (1971). "Comprehensive, discriminating, and continuing state surveillance will inevitably be required to ensure these restrictions are obeyed and the First Amendment otherwise respected." *Id.* at 619. In plain language, this bill simply requires too much oversight in a manner the Supreme Court never intended.

Mr. Speaker, it is also important to note that by not extending the religious exemption in the Civil Rights Act to include activities carried out under this subsection, the Congress would establish the possibility that organizations could discriminate on the basis of religion using federal funds. My conscience as a legislator cannot allow me to support this legislation for this reason alone.

This bill will allow religious groups to discriminate. Even more, it will chill the fight for civil rights for all Americans on both the state

and local level, where great gains have been made in ensuring quality for all. I cannot stand the irony that the religious institutions of America, which were so influential in the civil rights movement, will be allowed to erode the equal protection laws the citizens of this nation fought and died for.

Mr. Speaker, the Democratic substitute to this legislation avoids these pitfalls. The substitute legislation specifies that the civil rights exemption is not extended to allow groups receiving funds to discriminate in employment with taxpayer funds. It also provides that state and local civil rights laws are not superceded by the act.

The substitute bill also provides an offset to the tax code's top rate to balance the charitable contribution increase. The rate raises the top tax rate by 0.2%.

Under this proposal, no proselytization can occur at the same time and place as a government funded program. The substitute also deletes the private voucher provisions that would provide agencies with \$47 billion in discretionary funds, and deletes changes in tort reform that absolve businesses of liability.

The Democratic substitute is a better bill, Mr. Speaker. It pays heed to the words of Justice Burger and the precedents of the Supreme Court. I urge all members to vote against this measure and for the Democratic substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

#### RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on final passage.

The vote was taken by electronic device, and there were—ayes 195, noes 234, not voting 4, as follows:

[Roll No. 253]

#### AYES—195

Abercrombie  
Ackerman  
Allen  
Andrews  
Baca  
Baird  
Baldacci  
Baldwin  
Barcia  
Barrett  
Becerra  
Bentsen  
Berkley  
Berman  
Berry  
Bishop  
Blagojevich  
Blumenauer  
Bonior  
Borski  
Boswell  
Boucher  
Boyd  
Brady (PA)  
Brown (FL)  
Brown (OH)

Capps  
Capuano  
Cardin  
Carson (IN)  
Carson (OK)  
Clay  
Clayton  
Clement  
Clyburn  
Condit  
Conyers  
Costello  
Coyne  
Crowley  
Cummings  
Davis (CA)  
Davis (FL)  
Davis (IL)  
DeFazio  
DeGette  
DeLauro  
Deutsch  
Dicks  
Dingell  
Doggett

Dooley  
Doyle  
Edwards  
Eshoo  
Etheridge  
Evans  
Farr  
Fattah  
Filner  
Foley  
Ford  
Frank  
Frost  
Gephardt  
Gonzalez  
Gordon  
Green (TX)  
Gutierrez  
Harman  
Hastings (FL)  
Hill  
Hilliard  
Hinchey  
Hinojosa  
Hoeffel  
Holden

Holt  
Honda  
Hooley  
Hoyer  
Inlee  
Israel  
Jackson (IL)  
Jackson-Lee (TX)  
Jefferson  
Johnson, E. B.  
Jones (OH)  
Kanjorski  
Kaptur  
Kennedy (RI)  
Kildee  
Kilpatrick  
Kind (WI)  
Klecza  
Kucinich  
LaFalce  
Lampson  
Langevin  
Lantos  
Larsen (WA)  
Larson (CT)  
Leach  
Lee  
Levin  
Lewis (GA)  
Lofgren  
Lowey  
Luther  
Maloney (CT)  
Maloney (NY)  
Markey  
Mascara  
Matheson  
Matsui  
McCarthy (MO)

McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McNulty  
Meek (FL)  
Meeks (NY)  
Menendez  
Millender-McDonald  
Miller, George  
Mink  
Moore  
Moran (VA)  
Morella  
Murtha  
Nadler  
Napolitano  
Neal  
Oberstar  
Obey  
Olver  
Ortiz  
Owens  
Pallone  
Pascarelli  
Pastor  
Payne  
Pelosi  
Pomeroy  
Price (NC)  
Rahall  
Rangel  
Reyes  
Rivers  
Rodriguez  
Roemer  
Rothman  
Roybal-Allard  
Rush

Sabo  
Sanchez  
Sanders  
Sandlin  
Sawyer  
Schakowsky  
Schiff  
Scott  
Serrano  
Shays  
Sherman  
Slaughter  
Smith (WA)  
Snyder  
Solis  
Spratt  
Stark  
Strickland  
Stupak  
Tanner  
Tauscher  
Thompson (CA)  
Thompson (MS)  
Thurman  
Tierney  
Towns  
Udall (CO)  
Udall (NM)  
Velazquez  
Visclosky  
Waters  
Watson (CA)  
Watt (NC)  
Waxman  
Weiner  
Wexler  
Woolsey  
Wu  
Wynn

#### NOES—234

Aderholt  
Akin  
Armey  
Bachus  
Baker  
Ballenger  
Barr  
Bartlett  
Barton  
Bass  
Bereuter  
Biggert  
Bilirakis  
Blunt  
Boehlert  
Boehner  
Bonilla  
Bono  
Brady (TX)  
Brown (SC)  
Bryant  
Burr  
Burton  
Buyer  
Callahan  
Calvert  
Camp  
Cannon  
Cantor  
Capito  
Castle  
Chabot  
Chambliss  
Coble  
Collins  
Combest  
Cooksey  
Cox  
Cramer  
Crane  
Crenshaw  
Cubin  
Culberson  
Cunningham  
Davis, Jo Ann  
Davis, Tom  
Deal  
DeLay  
DeMint  
Diaz-Balart  
Doolittle  
Dreier  
Duncan  
Dunn  
Ehlers  
Ehrlich  
Emerson

English  
Everett  
Ferguson  
Flake  
Fletcher  
Forbes  
Fossella  
Frelinghuysen  
Gallegly  
Ganske  
Gekas  
Gibbons  
Gilchrest  
Gillmor  
Gilman  
Goode  
Goodlatte  
Goss  
Graham  
Granger  
Graves  
Green (WI)  
Greenwood  
Grucci  
Gutknecht  
Hall (OH)  
Hall (TX)  
Hansen  
Hart  
Hastings (WA)  
Hayes  
Hayworth  
Hefley  
Herger  
Hilleary  
Hobson  
Hoekstra  
Horn  
Hostettler  
Houghton  
Hulshof  
Hunter  
Hutchinson  
Hyde  
Isakson  
Issa  
Istook  
Jenkins  
John  
Johnson (CT)  
Johnson (IL)  
Johnson, Sam  
Jones (NC)  
Keller  
Kelly  
Kennedy (MN)  
Kerns

King (NY)  
Kingston  
Kirk  
Knollenberg  
Kolbe  
LaHood  
Largent  
Latham  
LaTourette  
Lewis (CA)  
Lewis (KY)  
Linder  
Lipinski  
LoBiondo  
Lucas (KY)  
Lucas (OK)  
Manzullo  
McCrery  
McHugh  
McInnis  
McIntyre  
McKeon  
Mica  
Miller (FL)  
Miller, Gary  
Mollohan  
Moran (KS)  
Myrick  
Nethercutt  
Ney  
Northup  
Norwood  
Nussle  
Osborne  
Ose  
Otter  
Oxley  
Paul  
Pence  
Peterson (MN)  
Peterson (PA)  
Petri  
PHELPS  
Pickering  
Pitts  
Platts  
Pombo  
Portman  
Pryce (OH)  
Putnam  
Quinn  
Radanovich  
Ramstad  
Regula  
Rehberg  
Reynolds  
Riley